IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 27702 of 2005

Between:

M/s Srinivasa Agencies Shop No.16-2-145/1 and 2,

Malakpet, Hyderabad rep by its GPA Holder

G.Satyanarayana.

..... PETITIONER

AND

The Chief Rationing Officer Hyderabad City,

Hyderabad.

.....RESPONDENT

ORDER:

Seeking a Mandamus, declaring the Memo Ref.No.C1/32/95, dated 11.11.2005 issued by the respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Civil Supplies.

The petitioner submits that he is one of the partner of M/s.Srinivasa Agencies, and the petitioner agency was granted license in the year 1986 to deal with business in edible oil and edible oil seeds in wholesale as well as retail. While so, the Inspector of Police, VCCS, Hyderabad visited the premises of the petitioner on 30.05.1995 and found that there was variation in stocks and accounts were not being properly maintained, and basing on the said allegations, he has seized the stocks available in the shop and registered a Crime No.25/V.C.City Team-I/95 and a Case No.32 of 19995 was filed under Section 6-A of the Essential Commodities Act before the respondent. Pending disposal of
6-A proceedings, as huge stocks were seized, the petitioner filed W.P.No.12440 of 1995 before this Court and this Court by order dated 22.06.1995, disposed of the said writ petitioner, observing that since 6-A Enquiry is stated to be pending, it is sufficient if a direction is issued to release the seized stock on the petitioner furnishing a third party immovable security. Accordingly, the petitioner furnished a third party immovable property security vide document No.9025/1991 of G.Satyanarayana and another in respect of the property situated at block No.4, Sy.No.44, 47 and 48 of Biramalguda village, admeasuring 1203.33 sq.yards and got released the stocks.

It is stated that the respondent passed final orders under Section 6-A of the Essential Commodities Act, confiscating 75% of the seized stocks, vide his order in Case No.32/95 in Crime No.25/VC City/95. As against the said order, the petitioner filed appeal before the Ex-Officio Secretary to Government, Food and Civil Supplies

(IV) Department on 14.03.1995, along with stay application. The appellate authority granted stay of the operation of the order of the Chief Rationing Officer, Hyderabad, subject to continuing the third party immovable property security furnished by the petitioner subject to the satisfaction of the Chief Rationing Officer, Hyderabad.

It is stated that the petitioner made a representation, requesting the respondent to return the document bearing No.9025/1991 by accepting another document No.8157/2003 as third party immovable property security, and also furnished registered document i.e. Sale Deed dated 29.09.2003, bearing registration No.8157/2003. It is stated that though no reason has been stated in the said representation, but it is stated that the petitioner, in respect of the property in which third party security was given, a Reliance retail outlet is sought to be established, and therefore, he wanted to replace the third party security by another immovable property.

I am of the opinion that interests of the respondent are only to have sufficient security for the value of the seized goods. If the third party security, which is sought to be replaced is also a genuine and valid immovable property, it is for the respondent to make necessary verification and satisfy him whether the third party security is genuine one or not, but there cannot be any objection to replace the genuine third party security in the place of existing security. But the respondent has rejected the representation of the petitioner only on the ground that the third party security was given pursuant to the orders of this Court and it is not possible to modify the orders of this Court and hence the request of the petitioner for replacing the existing document with other form of guarantee cannot be considered. In fact, this Court directed to release the seized stocks on the petitioner furnishing a third party immovable property, therefore, I am of the opinion that there cannot be any objection to substitute the third party security subject to verification of the respondent.

Having regard to the facts and circumstances of the case, the impugned memo dated 11.11.2005 issued by the respondent is set aside, and the respondent is directed to consider the representation of the petitioner in replacing the third party immovable property security, if the property, sought to be substituted, is found genuine.

With the above observations, the Writ Petition is disposed of. No order as to costs.

V.ESWARAIAH,J

Dated: 28.12.2005

Dsr

Note:

Issue CC in three days

B/o

Dsr